

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOVAN CAMPBELL,

Plaintiff,

-v.-

FISCHER & WIESER SPECIALTY FOODS,
INC.,

Defendant.

22 Civ. 09791 (JHR)

ORDER OF DISMISSAL

JENNIFER H. REARDEN, District Judge:

On August 29, 2022, Plaintiff filed the Complaint in this action. ECF No. 1. On October 5, 2022, Defendant was served with process. *See* ECF No. 8. Defendant's response was due on October 26, 2022. *Id.*; *see also* Fed. R. Civ. P. 12(a)(1)(A)(i) ("A defendant must serve an answer . . . within 21 days after being served with the summons and complaint."). Defendant has not responded to the Complaint or otherwise appeared.

On March 7, 2023, Plaintiff filed an application for a default judgment, proceeding by way of a proposed order to show cause. ECF No. 18. Pursuant to Attachment A to the Court's Individual Rules and Practices in Civil Cases, however, "[a] party seeking a default judgment should *not* proceed by order to show cause," but rather, "shall file a *motion* for default judgment." *Indiv. R. & Pracs.*, Attach. A, R. 4 (second emphasis added).

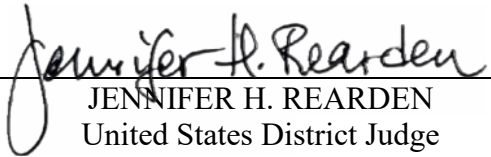
In light of Plaintiff's improperly filed default judgment application, on June 16, 2023, the Court issued an Order directing Plaintiff, "[b]y June 26, 2023, [to] file an application fully compliant with the procedures set forth in Attachment A." ECF No. 21. The Court's June 16 Order informed Plaintiff that "[f]ailure to submit a timely and proper motion for default judgment may result in dismissal of this case under Federal Rule of Civil Procedure 41." *Id.* Since that Order was issued, Plaintiff has not filed the required motion or otherwise taken any action to proceed in this case.

Accordingly, under Federal Rule of Civil Procedure 41(b) and the Court's inherent power, *see Link v. Wabash R.R. Co.*, 370 U.S. 626, 630-32 (1962), the Court hereby dismisses this case, without prejudice, for failure to prosecute.

The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: July 5, 2023
New York, New York


JENNIFER H. REARDEN
United States District Judge